

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 97-469-T – ORDER NO. 98-695
SEPTEMBER 8, 1998

IN RE: Application of Sani-Mobile Environment, L.L.C., 1120 Brumby Street, Charleston, SC 29405 for a Class E Certificate of Public Convenience and Necessity.) ORDER DENYING ✓) PETITION FOR) REHEARING OR) RECONSIDERATION
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This matter comes before the Public Service Commission of South Commission (“Commission”) on the Petition for Rehearing or Reconsideration of Order No. 98-571 filed by Sani-Mobile Environment, L.L.C. (“Sani-Mobile”). By Order No. 98-571, the Commission denied Sani-Mobile’s Application for a Certificate of Public Convenience and Necessity to transport hazardous wastes throughout the State of South Carolina. Sani-Mobile thereafter filed its Petition for Rehearing or Reconsideration. Laidlaw Environmental Services (TG), Inc. (“Laidlaw”), an intervenor in the proceedings, filed a Response to Sani-Mobile’s Petition for Rehearing or Reconsideration. For the reasons set forth below, the Commission denies Sani-Mobile’s Petition for Rehearing or Reconsideration.

In Order No. 98-571, the Commission, in denying Sani-Mobile’s Application, found that “Sani-Mobile has not demonstrated that its services are required by the present public convenience and necessity.” (Order No. 98-571, p. 7.) By its Petition, Sani-Mobile asserts that the Commission may deny an Application if the Commission believes

that the public convenience and necessity is already being served, but Sani-Mobile proposes that such a decision is discretionary. Sani-Mobile further proposes that an Applicant is under no obligation to provide a showing of an unmet need. In support of its position, Sani-Mobile cites to 26 S.C. Code Reg. 103-133 (Supp. 1997) which states that “if an intervenor shows or if the Commission determines that the public convenience and necessity is already being served, the Commission may deny the application.” Sani-Mobile requests reconsideration on the basis that the Commission denied the Application on the grounds that there was no showing that the public convenience and necessity was not being served, which Sani-Mobile asserts is a “pure discretionary test.” (Petition, p.2.)

The Commission finds no merit in Sani-Mobile’s assertion. S.C. Code Ann. Section 58-23-590 (Supp. 1997) provides in subpart (C) that “the commission shall issue a common carrier certificate ...of public convenience and necessity if the applicant proves to the commission that: (1) it is fit, willing, and able to properly perform the proposed service and comply with the provisions of this chapter and the commission’s regulations; and (2) the proposed service, to the extent to be authorized by the certificate or permit, is required by the present public convenience and necessity.” S.C. Code Ann. §58-23-590(C) (Supp. 1997). Thus the requirement that an Applicant prove or show that the present public convenience and necessity requires the services which the Applicant proposes to offer is not purely discretionary as asserted by Sani-Mobile but is a statutory requirement for approving the Certificate of Public Convenience and Necessity. Since S.C. Code Ann. §58-23-590(C) (Supp. 1997) requires the Applicant to prove that the present public convenience and necessity requires the proposed service, the Commission finds no error in its decision denying Sani-Mobile’s Application on the basis that Sani-

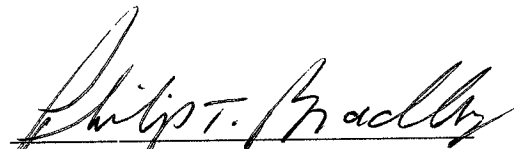
Mobile did not demonstrate that its services were required by the present public convenience and necessity. The Commission therefore denies Sani-Mobile's Petition for Rehearing or Reconsideration.

IT IS THEREFORE ORDERED THAT:

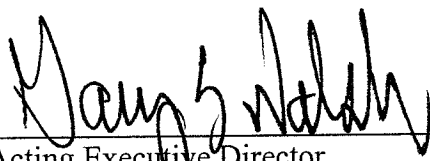
1. Sani-Mobile's Petition for Rehearing or Reconsideration is denied.
2. This Order shall remain in full force and effect until further Order of the

Commission.

BY ORDER OF THE COMMISSION:


CHAIRMAN

ATTEST:


Acting Executive Director

(SEAL)